

Exhibit B

Deposition Transcript of Dr. Shayne Sebold Taylor, M.D.

GORE, et al.

vs.

LEE, et al.

SHAYNE SEBOLD TAYLOR, M.D.

April 15, 2020



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1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF TENNESSEE
3 NASHVILLE DIVISION

4 KAYLA GORE; JAIME COMBS;
5 L.G.; and K.N.,

6 Plaintiffs,

7 vs.

Case No. 3:19-0328

8 WILLIAM BYRON LEE, in his
9 official capacity as
10 Governor of the State of
11 Tennessee; and LISA
12 PIERCEY, in her official
13 capacity as Commissioner
14 of the Tennessee
15 Department of Health,

16 Defendants.

17 Videoconference Deposition of:

18 SHAYNE SEBOLD TAYLOR, M.D.

19 Taken on behalf of Defendants
20 April 15, 2020

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S T I P U L A T I O N S

The videoconference deposition of SHAYNE SEBOLD TAYLOR, M.D. was taken by counsel for the Defendants, by Notice, with all participants appearing at their respective locations, on April 15, 2020, for all purposes under the Federal Rules of Civil Procedure.

All objections, except as to the form of the question, are reserved for the hearing, and that said deposition may be read and used in evidence in said cause of action in any trial thereon or any proceeding herein.

It is agreed that LINDSEY R. PERRY, LCR, RPR, CRR, CSR, Court Reporter for the State of Tennessee, may swear the witness, and that the reading and signing of the completed deposition by the witness are not waived.

1 * * *

2
3 MS. SHEW: I'm Dianna Shew. I'm with
4 the Tennessee Attorney General's Office representing
5 the defendants in this case. Just a couple of
6 announcements, and then I think the court reporter
7 might have some announcements.

8 We are conducting this deposition via
9 Webex. The witness, the court reporter, and all
10 counsel are appearing through Webex. We have
11 stipulated that the witness may be sworn remotely
12 and will be bound by that oath as if sworn in
13 person.

14 All objections except as to the form of
15 the question are reserved. Although this is -- this
16 deposition is being conducted via Webex, which is a
17 video -- has a video aspect to it, this deposition
18 is being recorded by normal stenographic means only,
19 and we are not making a video recording.

20 I think that is it. We have one
21 objecting attorney who has been identified, so I
22 believe that it will not be necessary, then, for him
23 to identify himself each time he makes an objection.
24 That will make things go more smoothly, and I think
25 it -- I'm looking -- it looks like we have pretty

1 much everybody else muted.

2 So with that, are there any other
3 announcements by Plaintiffs' counsel or the court
4 reporter?

5 MR. GONZALEZ-PAGAN: Not from
6 Plaintiffs' counsel. Thank you, Dianna.

7 THE REPORTER: I don't think I have any
8 announcements other than we need to be very aware of
9 speaking loudly and clearly and one at a time, and
10 just let me know if anyone has any questions during
11 the proceedings, but with that, I think we can go
12 ahead and swear our witness in.

13 MS. SHEW: All right.

14
15 * * *

16 SHAYNE SEBOLD TAYLOR, M.D.
17 was called as a witness, and after having been first
18 duly sworn, testified as follows:

19
20 EXAMINATION

21 QUESTIONS BY MS. SHEW:

22 Q. Dr. Taylor, would you state your full name
23 for the record, please.

24 A. My name is Shayne, S-H-A-Y-N-E. My middle
25 name is Sebold, S as in Sam, E-B-O-L-D, as in dog.

1 Last name is Taylor, T-A-Y-L-O-R.

2 Q. Thank you.

3 Dr. Taylor, have you ever given a deposition
4 before?

5 A. I have not.

6 Q. Well, just a couple of ground rules, and
7 your attorneys have probably covered this, but as
8 the court reporter said, we're -- it's important
9 that we not speak over each other. She's creating a
10 written transcript, and it makes it hard for her to
11 transcribe. In addition, with the Webex connection,
12 it makes it hard for us to hear. Everybody gets
13 garbled, and I will try and follow that same rule
14 myself.

15 I'm going to ask you a series of questions.
16 If at any point you don't hear my question or don't
17 understand my question, please say that, and I will
18 be glad to restate or rephrase my question for you.

19 This is not an endurance competition, so if
20 at any point you need a break, please just say so
21 and we'll take a break. I only ask that you not
22 request a break if I have an open question on the
23 table that you have not answered.

24 Any -- any questions about those ground
25 rules?

1 A. No.

2 Q. Okay. Dr. Taylor, have you ever provided an
3 expert report or an expert opinion in a lawsuit
4 prior to this one?

5 A. No, I have not.

6 Q. All right. Today, I'm going to ask you
7 about a few exhibits. The exhibits I'm -- that I
8 may ask you about consist of your expert report, an
9 updated bibliography, and the amended complaint in
10 this lawsuit.

11 Do you have those documents available to
12 you?

13 A. I do.

14 Q. Okay. Thank you.

15 Dr. Taylor, what is your primary area of
16 expertise?

17 A. I am a physician. I'm double board
18 certified in both internal medicine and pediatrics
19 by the board -- American Board of Internal Medicine
20 and the American Board of Pediatrics. I'm a primary
21 care physician at Vanderbilt University Medical
22 Center, and my clinical area of interest is taking
23 care of LGBTQ patients, and I'm the lead clinician
24 in Vanderbilt Clinic For Transgender Health where I
25 manage most of the hormone therapy and primary care

1 for transgender patients.

2 Q. All right. Thank you.

3 Let's -- let's start by going through your
4 report, and I would like the court reporter to go
5 ahead and mark that as Exhibit 1, please.

6 (WHEREUPON, a document was marked as
7 Exhibit Number 1.)

8 THE REPORTER: It has been so marked.

9 MS. SHEW: All right. Thank you.

10 BY MS. SHEW:

11 Q. Dr. Taylor, just flipping to the --
12 Exhibit A of your report is your CV; correct?

13 A. That is correct.

14 Q. Have there been any additions or changes to
15 this CV since you prepared your report and attached
16 the CV to the report?

17 A. I have given an additional presentation.

18 Q. Okay. And what was that presentation?

19 A. That presentation was for the American
20 College of Osteopathic Obstetricians and
21 Gynecologists. It was regarding clinical care for
22 the transgender patient.

23 Q. And when was that?

24 A. That was just last week. Very recently,
25 which is why it was not on this most updated CV.

1 Q. Okay. And did you -- was that presented
2 live or was it presented in some way virtually?

3 A. The conference ended up being a virtual
4 conference due to the COVID pandemic.

5 Q. Okay. It was a conference of the American
6 College of Obstetricians and Gynecologists?

7 A. It was the American College of
8 Osteopathic --

9 Q. Okay.

10 A. -- Obstetricians and Gynecologists, so
11 A-C-O-O-G.

12 Q. Thank you.

13 Any other changes, additions, or corrections
14 to your CV?

15 A. No. I think that otherwise it's pretty up
16 to date.

17 Q. All right. And then Exhibit B to your
18 report is a bibliography?

19 A. That's correct.

20 Q. And I understand there has been an addition
21 to that bibliography since it was filed?

22 A. Yes. It was amended.

23 Q. Okay. Let's -- let's go ahead and mark the
24 updated bibliography as Exhibit 2.

25 (WHEREUPON, a document was marked as

Exhibit Number 2.)

THE REPORTER: It has been so marked.

BY MS. SHEW:

Q. Dr. Taylor, can you tell me what was otherwise added or changed to the amended bibliography?

A. An additional research paper that was just written was added to the bibliography. Was recently published.

Q. Was that -- I'm looking at the amended bibliography.

Was that Item 48?

A. No.

Q. Okay. I was just looking for a 2020 study. Or was it Item -- Item 51? No. Item 51 appears -- you don't know which is the addition?

A. I have the -- the -- I have the name of the citation. I'm wondering if the copy that we have -- that I printed off this morning, it doesn't include it.

Q. What's the name?

A. The title of the paper is called Gender-Concordant Identity Documents and Mental Health Among Transgender Adults in the United States. It was published in Lancet. I'm looking

1 through the bibliography, and I'm wondering if it
2 hasn't been included in this most recent one.

3 Q. Well, the one I have is 59 entries, and the
4 previous one had 58. So, somewhere, we've added,
5 but they're listed -- seem to be listed by author's
6 last name.

7 A. Let me look.

8 MR. LIM: If I may, Dr. Taylor, it's
9 Paragraph 48.

10 MR. GONZALEZ-PAGAN: Yeah. It's 48 on
11 the updated, Dianna.

12 Dr. Taylor, this one, actually, that
13 you're looking at is the updated bibliography, which
14 is a standalone document and not the one that's
15 attached to the report.

16 BY MS. SHEW:

17 Q. Right. That's what -- I thought it was 48.
18 Yeah. 48.

19 A. Oh, I apologize. I have a different copy of
20 it printed out for me.

21 Q. Okay. Okay.

22 A. I apologize.

23 Q. So Item 48 on the updated bibliography is
24 the recent addition; correct?

25 A. Let me clarify. Yes, that is correct. I

1 apologize about that.

2 Q. Okay. Dr. Taylor, what documents have you
3 reviewed regarding this lawsuit or regarding the
4 plaintiffs in this case?

5 A. Regarding the plaintiffs, the only document
6 that I have reviewed is the amended complaint and
7 the documents that are listed in my bibliography
8 that were helpful in preparing my testimony.

9 Q. Have you reviewed any other documents
10 regarding this lawsuit or regarding the plaintiffs?

11 A. Yes, actually. I have reviewed the expert
12 witness [sic] written by Dr. Ettner and by the --
13 written by the defendant witnesses as well.

14 Q. Anything else that you reviewed?

15 A. Not that I can recall.

16 Q. And you said you'd reviewed items in the
17 bibliography that you believed were helpful to you
18 in this case?

19 A. That's correct.

20 Q. So you did not rely on all of the items in
21 the bibliography in forming your opinions in this
22 case; is that correct?

23 A. The items in the --

24 MR. GONZALEZ-PAGAN: Objection. Form.

25 //

1 BY MS. SHEW:

2 Q. You can answer.

3 A. The items in the -- okay. Thank you.

4 The items in the bibliography are some of
5 the most well-established papers in this field. Not
6 all of them -- the content of all of them did not
7 make it into the testimony, but they were all
8 reviewed while preparing my testimony.

9 Q. And you said some of them were what? Some
10 of the most -- I forget the term you used now. Some
11 of these are what? Among the most -- I don't think
12 you said "important," but --

13 A. Often cited.

14 Q. Often cited? And which are those?

15 A. I don't have a specific one that is used
16 more often than others when -- I don't have a
17 specific one that's used more often than others.

18 Q. All right. So if I understand your
19 testimony, you're saying that you reviewed
20 everything in the bibliography but relied more
21 heavily on some items than on others; is that
22 correct?

23 MR. GONZALEZ-PAGAN: Objection. Form.

24 BY MS. SHEW:

25 Q. Is that correct?

1 A. Yes, that is correct.

2 Q. Are there any other documents regarding the
3 plaintiffs or this lawsuit that you have reviewed?

4 A. None that I can recall.

5 Q. Have you met with any of the plaintiffs in
6 this case?

7 A. Not regarding this case, no.

8 Q. Okay. But you -- apparently you have met
9 with one or more of the plaintiffs in this case; is
10 that correct?

11 A. One of the plaintiffs in this case is a
12 volunteer at my clinic.

13 Q. And which plaintiff is that?

14 A. That would be Ms. Jaime Combs.

15 Q. Okay. Have you discussed this lawsuit with
16 Ms. Combs?

17 A. I have not.

18 Q. Have you discussed Ms. Combs' facts as they
19 are recited in the amended complaint in this lawsuit
20 with Ms. Combs?

21 A. I have not.

22 Q. Are there any -- have you met or spoken with
23 any of the other plaintiffs in this case in any
24 context?

25 A. I have not.

1 Q. Have you in any way provided any counseling
2 or medical treatment for any of the plaintiffs in
3 this case?

4 A. I have not. I have not treated any of them
5 clinically.

6 Q. Dr. Taylor, as I understand the opinions set
7 forth in your report, you are not offering opinions
8 regarding any specific harms that these particular
9 plaintiffs have or have not suffered; is that
10 correct?

11 MR. GONZALEZ-PAGAN: Objection. Form.

12 THE WITNESS: I have never treated these
13 patients, so my testimony is not based on the
14 current Plaintiffs' experiences or the harms that
15 they have faced.

16 BY MS. SHEW:

17 Q. And, again, as I understand your report and
18 the opinions set forth in that report, you are not
19 claiming to have expertise regarding the creation,
20 amendment, or maintenance of vital records; is that
21 correct?

22 MR. GONZALEZ-PAGAN: Objection. Form.

23 THE WITNESS: I am a medical physician.
24 My expertise lies in the treatment of patients and
25 not in the formation or preservation of vital

1 records.

2 BY MS. SHEW:

3 Q. Did Plaintiffs' counsel provide you any
4 information regarding this case other than what
5 you've just described to us?

6 A. No. I believe the documents I described are
7 the only ones that the plaintiffs' counsel provided
8 me with.

9 Q. Okay. Did Plaintiffs' counsel ask you to
10 make any assumptions about the plaintiffs in this
11 case or about any other things in this case?

12 MR. GONZALEZ-PAGAN: Objection. Form.
13 Privilege.

14 Dr. Taylor, you may answer to the extent
15 that it doesn't reveal any privileged information.

16 THE WITNESS: Can you repeat the
17 question, please?

18 BY MS. SHEW:

19 Q. I asked if Plaintiffs' counsel asked you to
20 make any assumptions about the plaintiffs or about
21 any other things in this case.

22 A. No.

23 Q. Dr. Taylor, I would like to ask you to give
24 us, at least in your expertise, your definition of
25 some terms that have been used in this lawsuit.

1 First, what is transgender or a transgender
2 person?

3 MR. GONZALEZ-PAGAN: Objection. Form.

4 THE WITNESS: A transgender person -- a
5 transgender individual is a person who has a gender
6 identity that does not match their sex assigned at
7 birth.

8 BY MS. SHEW:

9 Q. All right. And what is gender identity?

10 A. Gender identity is one's lived experience
11 and one's identity as either male or female or
12 neither of the above. It is -- every person has a
13 gender identity, and it is biologically based and
14 innate to that individual.

15 Q. So one's gender identity, as you said, might
16 be male or female or neither of the above; correct?

17 A. That's correct.

18 Q. Okay. If it is neither male nor female,
19 what options are there?

20 A. Most of my patients identify as either male
21 or female, but there is a small subset of patients
22 who do not identify as either male or female or
23 have -- feel that they possess gender identities
24 that encompass both genders.

25 Q. Are there particular terms or terminologies

1 that are used by those persons?

2 A. Some terms that are used to describe those
3 people are gender nonbinary or gender fluid.

4 Genderqueer is another term that's used.

5 Q. Is -- is it accurate to say that those
6 persons would feel incorrectly identified if
7 referred to as either male or female?

8 A. I cannot make a generalization as to how
9 those patients would feel based on how you address
10 them.

11 Q. Do you -- without making a generalization,
12 then, do you know of specific examples -- and I'm
13 not asking you to identify people at all. I'm just
14 asking if you know of specific examples of persons
15 who identify neither as male nor female, and with
16 those examples in mind, would they maintain that
17 they are incorrectly identified if referred to as
18 male or female?

19 MR. GONZALEZ-PAGAN: Objection. Form.

20 THE WITNESS: I would say, based on the
21 limited amount of patients that I have experienced
22 with -- who do not identify as male or female, they
23 would object to being identified as either male or
24 female.

25 BY MS. SHEW:

1 Q. All right. Getting back to -- I was asking
2 you to give us some definitions.

3 What is sex?

4 A. Sex is a complex multifactorial term, and
5 many things go into sex. It's generally determined
6 based on a cursory exam of an infant's external
7 genitals in the delivery room, but after significant
8 amount of research and study, we have realized and
9 understood that it is far more complex than that.
10 It also incorporates an individual's chromosomal
11 makeup, their hormonal makeup, the hormones they
12 were exposed to during fetal development, the
13 hormones they're exposed to during puberty, their
14 internal anatomy, their external anatomy and -- in
15 addition to their gender identity.

16 Q. What is true sex?

17 A. I'm sorry. Can you repeat the question?

18 Q. The phrase "true sex," T-R-U-E, true sex,
19 what does that mean?

20 A. I am not familiar with that phrase.

21 Q. Okay. What about gender dysphoria?

22 A. Gender dysphoria is a diagnosis where
23 somebody experiences psychological trauma,
24 depression, anxiety, and distress over the fact that
25 their gender identity does not match their sex that

1 was assigned to them at birth.

2 Q. What does the phrase "gender nonconforming"
3 mean?

4 A. That isn't a term I use regularly, and I
5 have not defined it in my testimony. I think that
6 many people have different definitions of that term,
7 and I don't really feel that I can comment on it.

8 Q. Do you have a working definition?

9 A. It's not really -- that term isn't really in
10 my vernacular that I use clinically, so, no, I don't
11 have a working definition of gender nonconformity.

12 Q. Okay. Let's -- I'd like to ask you a few
13 questions about your report if you want to just get
14 that handy. Let's start at Paragraph 18.

15 A. Okay.

16 Q. And you testified about this a little bit
17 just a moment ago. You say the sex of a child is
18 often determined after delivery based on the visual
19 appearance of an infant's external genitals, and you
20 go on to say that that's successful in assigning sex
21 in an overwhelming majority of individuals.

22 Do you have any opinion that sex at the time
23 of birth should be -- should be determined in some
24 different way?

25 MR. GONZALEZ-PAGAN: Objection. Form.

1 THE WITNESS: At this point, I believe
2 that we should continue to use an infant's genitals
3 as a proxy for their sex, as we are unable to have
4 the capacity to do a further diagnostic workup on
5 every individual that's born. With that said, if an
6 infant or a child or an individual disagrees with
7 that proxy that we use and said that it was the
8 wrong sex, they should not be penalized for that.

9 BY MS. SHEW:

10 Q. And what do you mean by "They should not be
11 penalized for that"?

12 A. Well, what I'm trying to say is that if --
13 somebody's gender identity and how they identify is
14 the determining factor for their sex, not the proxy
15 that we used when they were in the delivery room
16 when they were born.

17 Q. Let's flip ahead, Dr. Taylor, to
18 Paragraph 41 of your report.

19 A. Okay.

20 Q. You describe gender transition for persons
21 who suffer from gender dysphoria as having three
22 components: Social transition, medical transition,
23 and surgical transition; correct? Three possible
24 components, not three necessary components. Is that
25 correct?

1 A. Yes. That's what's outlined in my
2 testimony.

3 Q. Okay. Then at Paragraph 44, you state the
4 "central aspect of social transition includes having
5 one's personal documentation match their gender
6 identity." And "To accomplish this, many
7 transgender people legally change their names..."

8 Do you have a feel for what percentage of
9 transgender people legally change their names as
10 part of transition?

11 MR. GONZALEZ-PAGAN: Objection. Form.

12 THE WITNESS: I couldn't possibly
13 predict that or pull that number without looking at
14 all of my patients and trying to make a
15 generalization.

16 BY MS. SHEW:

17 Q. If you looked at all of your patients, is it
18 enough to be a reasonable sample size or -- or not?

19 MR. GONZALEZ-PAGAN: Objection. Form.

20 THE WITNESS: Many of my patients
21 legally changed their name. I cannot speak to
22 whether or not it would be a reasonable sample size.

23 BY MS. SHEW:

24 Q. Okay. Then you go on to say that "Social
25 transition includes having one's driver's license,

1 passport, birth certificate, school or employee ID
2 have the gender marker of the sex with which they
3 identify."

4 And really my question is the same: Do you
5 have an opinion as to what percentage of patients
6 undergoing transition seek to have their identity
7 documents changed?

8 MR. GONZALEZ-PAGAN: Objection. Form.

9 THE WITNESS: I do not know a
10 percentage, no. I cannot answer that question.

11 BY MS. SHEW:

12 Q. Okay. Is it fair to say, Dr. Taylor, that
13 the process of transition is highly individualized
14 for each person?

15 A. Yes, I would agree with that statement.

16 Q. At -- let's look at Paragraph 52 of your
17 report. You -- you state that "A person's gender
18 dysphoria can worsen if the person legally cannot
19 complete their social transition. Gender dysphoria
20 can worsen if a transgender person has discordant
21 documentation, where some documents accurately
22 reflect their gender identity and others do not."

23 Dr. Taylor, do you have personal experience
24 with any patients who have had that issue?

25 MR. GONZALEZ-PAGAN: Objection. Form.

1 THE WITNESS: I have.

2 BY MS. SHEW:

3 Q. I'm sorry. You said you do?

4 A. I do.

5 Q. Approximately how many patients have you
6 seen that have that issue?

7 A. I don't feel like I can provide a number.

8 Q. I mean, you don't know the number or can't
9 approximate the number?

10 A. I cannot approximate the number.

11 MR. GONZALEZ-PAGAN: Objection. Form.

12 BY MS. SHEW:

13 Q. I'm sorry. Could you repeat that,
14 Dr. Taylor?

15 A. I don't feel like I can approximate a
16 number.

17 Q. Okay. Is it -- I'm -- all right. Given
18 that you don't want to approximate a number, I'm
19 trying to just get in the ballpark.

20 Is it a lot of people? Some people? A few
21 people?

22 MR. GONZALEZ-PAGAN: Objection. Form.

23 THE WITNESS: I would say that I have
24 many patients who gender dysphoria has worsened
25 because of discordant documentation.

1 BY MS. SHEW:

2 Q. And by "discordant documentation," just to
3 be clear, we're talking about a situation where the
4 person has some documents which accurately reflect
5 their gender identity and other documents which do
6 not; correct?

7 MR. GONZALEZ-PAGAN: Objection. Form.

8 THE WITNESS: That is one example. The
9 other example would be a patient who has no
10 gender -- has no documentation that reflects their
11 gender identity.

12 BY MS. SHEW:

13 Q. All right. Let's break those down. Let's
14 talk about those as two categories.

15 Persons with gender dysphoria who have some
16 identification documents that accurately reflect
17 their gender identity and other identification
18 documents that do not accurately reflect their
19 gender identity, let's start with that category.

20 A. Okay.

21 Q. Have you seen a few people who have their
22 gender dysphoria worsen because of that? A few?
23 Significant number? Many? What --

24 MR. GONZALEZ-PAGAN: Objection to form.

25 BY MS. SHEW:

1 Q. -- what sort of numbers are we talking
2 about?

3 MR. GONZALEZ-PAGAN: Sorry for
4 interrupting, Dianna. Same objection.

5 MS. SHEW: That's all right.

6 THE WITNESS: I would say that I have --
7 I would say that I have many patients who fit that
8 description.

9 BY MS. SHEW:

10 Q. And then of those persons whose gender
11 dysphoria worsens because they have no documents
12 that accurately reflect their gender identity, is
13 that, you know, a few? Some? Many?

14 MR. GONZALEZ-PAGAN: Objection. Form.

15 THE WITNESS: Again, I would say there
16 are many patients that I have that fall into that
17 category.

18 BY MS. SHEW:

19 Q. Do you -- do you know in -- in which of
20 those categories you have more patients that suffer
21 worsening of their gender dysphoria?

22 MR. GONZALEZ-PAGAN: Objection. Form.

23 THE WITNESS: No, I don't feel like I
24 can accurately assess that and make an accurate
25 answer to that question.

1 BY MS. SHEW:

2 Q. Okay. Let's look at Paragraph 53 of your
3 report. And you're talking about -- following from
4 52, it looks like you're talking about a worsening
5 of -- I don't know if you're talking about a
6 worsening of gender dysphoria or just the impact of
7 the identification documents, but you said you've
8 had -- well, I want to find out if these are
9 actually -- you give an example of "A student
10 applying to college may not get assigned appropriate
11 and safe housing if their legal documentation is
12 incorrect or incongruent."

13 Are you familiar with -- are you personally
14 familiar with examples of that happening?

15 A. I have many students who are -- college
16 students who live in communal housing who were given
17 housing with individuals based on their sex assigned
18 at birth and not their gender identity.

19 Q. Do you know how -- do you know if -- if
20 there are any that have not been able to get that
21 rectified?

22 A. I don't know.

23 Q. Later on in -- then -- oh. Let's -- next
24 sentence, I suppose, you say it can "lead to
25 significant anxiety." "... so much so that

1 transgender youth may opt out of applying to college
2 altogether."

3 Are you personally aware of a situation
4 where that occurred?

5 A. I am aware of transgender students who have
6 ended up dropping out of college because of the
7 challenges being so great. I specifically don't
8 know of somebody who didn't apply to college because
9 of these challenges.

10 Q. Okay. And then you say "A transgender woman
11 with incorrect documentation may be unable to stay
12 in a women's homeless shelter..."

13 Are you personally aware of any situation in
14 which that has occurred?

15 A. No.

16 Q. Going down to Paragraph 54, you mention in
17 this paragraph that your patients frequently report
18 certain challenges, and I want to go through some of
19 those.

20 First, they report the challenges they face
21 at the pharmacy filling prescriptions.

22 What is the challenge they're facing at the
23 pharmacy?

24 MR. GONZALEZ-PAGAN: Objection. Form.

25 THE WITNESS: Pharmacists questioning

1 why they're on the medications that they're being
2 prescribed; insurance companies refusing to pay for
3 those medications because they don't see a medical
4 indication for it are some examples.

5 BY MS. SHEW:

6 Q. All right. And then what are the challenges
7 at the DMV?

8 A. Challenges at the DMV could include having a
9 gender presentation that is different than their
10 gender marker that is listed on their ID; challenges
11 that come with trying to change their gender marker
12 that is listed on their driver's license. Those are
13 some examples.

14 Q. Going back to the pharmacy issue for a
15 moment, has -- have you had a patient or have
16 personal knowledge of anybody who's been asked to
17 present a birth certificate at a pharmacy?

18 MR. GONZALEZ-PAGAN: Objection. Form.

19 THE WITNESS: No.

20 BY MS. SHEW:

21 Q. And then you said challenges talking to
22 their health insurance companies.

23 What personal examples can you give with
24 that -- with respect to that?

25 MR. GONZALEZ-PAGAN: Objection. Form.

1 THE WITNESS: Coverage for certain
2 preventative health-related procedures; coverage for
3 their medications; disclosing -- or changing their
4 gender marker with the insurance company and then
5 how that leads to -- how that could potentially lead
6 to downstream lack of coverage for other procedures;
7 trying to get medications and services covered.

8 BY MS. SHEW:

9 Q. I'm curious. What is the -- what is the
10 obstacle or obstacles they're facing with respect to
11 preventative health procedures?

12 A. Every transgender person has their gender
13 marker changed on their insurance card, their
14 insurance documentation, so let's say somebody who
15 was assigned female at birth identifies as male and
16 has their documentation changed to reflect their
17 gender identity for their gender -- their insurance
18 card says that they're male, that insurance company
19 may, therefore, not pay for a mammogram or a Pap
20 smear even though the patient still has that anatomy
21 that still needs to be screened for malignancies.

22 Q. Okay. Thank you.

23 In Paragraph 55, you say "Transgender people
24 may feel that they're unable to participate in their
25 communities, neighborhoods, schools, or jobs with

1 without having documentation that reflects their
2 gender identity."

3 What -- what examples are you aware of?

4 A. I think it's the fact -- I think it's partly
5 the fact that we have data to suggest that a
6 transgender person's dysphoria can worsen when they
7 don't feel that their community or their legal
8 system or their state recognizes them for who they
9 really are, and, therefore, they may feel limited in
10 their ability to participate in their communities
11 because they do not feel recognized by their
12 communities.

13 Q. Do you have any more specific examples or is
14 that what you meant by the statement in
15 Paragraph 55?

16 MR. GONZALEZ-PAGAN: Objection. Form.

17 THE WITNESS: I would need some more
18 time to think about a specific example.

19 BY MS. SHEW:

20 Q. Well, we'll come back to that one.

21 Paragraph 56, you refer to a 2015 Canadian
22 study which "demonstrated that having one or more
23 identity documents concordant with gender identity
24 was statistically significantly associated with
25 reduced suicidal ideations and attempts. Based on

1 this study's results, for every 1,000 people whose
2 identity documents are correct, 90 episodes of
3 suicidal ideation and 20 suicide attempts would be
4 prevented over the course of one year."

5 And you're cited the Bauer study in the
6 bibliography; correct?

7 A. That's correct.

8 Q. Do you know if that outcome of less suicidal
9 ideation and less suicidal attempts is enhanced if
10 there are more identity documents concordant with
11 gender identity? In other words, the more documents
12 you have concordant with gender identity, is there
13 data to show that suicidal ideation or suicidal
14 attempts are reduced even further?

15 A. Yes, we do have that. The paper that was
16 added to the bibliography in the amended
17 bibliography was a study of just that. The authors
18 reviewed -- and I don't have the paper out in front
19 of me, so I'll try to summarize it to the best of my
20 ability, but the authors have shown that based on
21 the 2015 transgender -- transgender survey -- I
22 don't have the formal name in front of me. They had
23 about 22,000 people submit a survey, and less than
24 11 percent of them had all of their gender identity
25 documents matching, and of those patients who had

1 all of their gender identity documents concordant
2 and reflective of their true name and true gender
3 identity, those patients had a significantly lower
4 risk of suicide attempts and suicidal ideation.

5 For the patients who had some documents
6 reflective of their gender identity and the patients
7 who had no documentations -- or documents reflective
8 of their gender identity had much higher risks of
9 suicide and depression and suicide attempts.

10 Again, I don't have the paper in front of
11 me, so I can't give you the actual raw data that I'd
12 like to present for you right now, but that was what
13 that study was showing; that the more documents you
14 have, the better the outcomes are for the -- for the
15 individual.

16 Q. And this was the Lancet study that we
17 discussed earlier in your deposition --

18 A. That's correct.

19 Q. -- correct? Okay.

20 Let's look at Paragraph 60 of your report.
21 You state -- and I want to read it very exactly from
22 your report. You state "A patient's right to
23 privacy includes what they choose to do with their
24 own documentation."

25 What do you mean by that?

1 A. I mean that it is a deeply personal decision
2 to change one's documentation, and it is unique for
3 each person, and that choice that they make is -- is
4 a private one, and their privacy can be in their --
5 situations in which they disclose their transgender
6 status, all of that is a very private and personal
7 decision, and what they choose to do with their own
8 documentation is part of their -- is part of their
9 privacy.

10 Q. Let's go to Paragraph 62 of your report.
11 The first sentence of Paragraph 62 you state "Aside
12 from intentionally trying to discriminate against
13 transgender people and infringing on their rights to
14 privacy, I can think of no other plausible reason
15 why the State of Tennessee would refuse to change a
16 person's gender marker on their birth certificate."

17 Did I read that correctly?

18 A. Yes.

19 Q. Okay. Dr. Taylor, you don't know why the
20 State of Tennessee won't change the "sex" field on
21 certain birth certificates, do you?

22 MR. GONZALEZ-PAGAN: Objection. Form.

23 THE WITNESS: Based on the documentation
24 that I read from the defendant's expert witness,
25 from what I can understand, they're trying to

1 preserve vital statistics, and that is the main
2 reason why they have chosen not to grant this for
3 transgender individuals.

4 BY MS. SHEW:

5 Q. All right. Your statement is that you can
6 think of no other plausible reason why the state
7 won't change it except that it's trying to
8 intentionally discriminate?

9 MR. GONZALEZ-PAGAN: Objection.

10 BY MS. SHEW:

11 Q. That is your statement; correct?

12 A. Yes, that is my statement.

13 Q. Okay. But, in fact, as I understand your
14 linkage here -- tell me if I'm -- if I misunderstand
15 your answer -- you've read one or more of
16 Defendants' expert reports which state that the
17 State of Tennessee is trying to preserve the
18 integrity of vital records, and you believe that
19 that report or that opinion is -- is simply masking
20 an intent -- an intention to -- an intent to
21 intentionally discriminate against transgender
22 persons.

23 Is that what you're saying?

24 THE REPORTER: I'm sorry. This is the
25 reporter. I didn't catch that objection.

1 MR. GONZALEZ-PAGAN: Sure. Objection.
2 Form. Mischaracterizes testimony.

3 THE REPORTER: Thank you.

4 MR. GONZALEZ-PAGAN: You may answer,
5 Dr. Taylor.

6 THE WITNESS: I would say that I -- I
7 agree with the statement in my -- in my testimony;
8 that I believe all provisions to prevent a
9 transgender patient from changing their birth
10 certificate marker is an act of discrimination.

11 BY MS. SHEW:

12 Q. Regardless of why it is done; is that
13 correct?

14 MR. GONZALEZ-PAGAN: Objection. Form.

15 THE WITNESS: I -- knowing the fact that
16 48 other states in the country allow this and also
17 have a responsibility to uphold vital statistics, I
18 feel that Tennessee's response is, as mentioned in
19 my testimony, an act of discrimination infringing on
20 their rights to privacy.

21 BY MS. SHEW:

22 Q. But -- but to be plain, and, again, I'm
23 going back to your words, you believe that
24 Tennessee's stated purpose of preserving its vital
25 records is a pretense for intentional discrimination

1 against transgender persons; correct?

2 MR. GONZALEZ-PAGAN: Objection. Form.

3 You may answer, Dr. Taylor.

4 THE WITNESS: I -- I -- I -- I might
5 need you to clarify the statement one more time.

6 BY MS. SHEW:

7 Q. Okay. You -- based on Paragraph 62 of your
8 report, you believe that Tennessee's stated purpose
9 of preserving the integrity of vital records is just
10 a -- it's a pretext or a pretense for intentional
11 discrimination against transgender persons?

12 MR. GONZALEZ-PAGAN: Objection. Form.

13 THE WITNESS: I'm not sure if I feel
14 comfortable answering that question. I believe that
15 the argument of preserving vital statistics is
16 not -- is not strong in this case, and, you know, I
17 agree with the -- the statement I'm saying in my
18 testimony; that I think the -- the policy in
19 Tennessee is intentionally discriminating against
20 transgender patients or individuals.

21 BY MS. SHEW:

22 Q. Okay. Let's go to the next part of
23 Paragraph 62. You reference the Williams Institute
24 study stating there are approximately 31,000
25 transgender persons living in the State of

1 Tennessee, which is composed of 6.77 million people,
2 and then you go on to state "Even if every
3 transgender Tennessean took advantage of changing
4 their birth certificates, the likelihood that it
5 would have any statistically relevant impact on the
6 state's vital statistics is slim to nonexistent."

7 Is that a correct read of your statement?

8 A. Yes. That's what I wrote.

9 Q. Okay. What's the basis for that opinion?

10 A. The basis for the opinion is that this is
11 still a relatively small group of people, and of
12 this relatively small group of people, a relatively
13 smaller group of people will probably be the ones to
14 take advantage of changing their names on their
15 birth certificates, so the likelihood that it would
16 have impact on any data that the State of Tennessee
17 is trying to collect is probably not going to be
18 statistically significant. And then if you review
19 down to Paragraph 64, it seems as though keeping an
20 original copy of the patient's birth certificate or
21 an individual's birth certificate under seal is
22 still a valid option for maintaining vital
23 statistics.

24 Q. Okay. Of -- let's look at the numbers you
25 have in Paragraph 62.

1 Of those roughly 31,000 transgender persons,
2 you don't know how many might or might not elect to
3 change the -- the "sex" field on their birth
4 certificate, do you?

5 A. No, I don't.

6 MR. GONZALEZ-PAGAN: Objection. Form.

7 BY MS. SHEW:

8 Q. You would -- you would agree, would you not,
9 Dr. Taylor, that even very small variations in
10 statistical data can become statistically
11 significant, just as a general proposition?

12 A. I am not a statistician. I'm a medical
13 physician who has read quite a bit of literature,
14 and when you have such large sample sizes, there is
15 some degree of variability, and small numbers will
16 have -- have less of an effect when there's -- as a
17 large population.

18 Q. Right, but they can still have an effect;
19 correct?

20 MR. GONZALEZ-PAGAN: Objection. Form.

21 THE WITNESS: They could still have an
22 effect.

23 BY MS. SHEW:

24 Q. Going to Paragraph 63, you note -- you --
25 you discuss the fact that other states allow

1 transgender individuals to correct their birth
2 certificates in a manner consistent with their
3 gender identity and go on to say that these states
4 have determined that the overall impact of allowing
5 transgender people to correct sex designation "was
6 insignificant for the state and did not negatively
7 affect the states' interests in ensuring accurate
8 and useful vital statistics records."

9 Do you have any basis for stating that other
10 states have undertaken that analysis? That they've
11 undertaken a statistical analysis and concluded that
12 it's not statistically significant or, as you say,
13 was insignificant?

14 MR. GONZALEZ-PAGAN: Objection. Form.

15 THE WITNESS: I don't, but I imagine
16 that those 48 other states in our country have a
17 similar goal and interest in collecting data to be
18 used for research in public health and, you know,
19 city-wide or state-wide research, and those 48 other
20 states felt that they could still provide this
21 service to transgender individuals despite having
22 the same goals that Tennessee has in maintaining
23 vital statistics.

24 BY MS. SHEW:

25 Q. But, in fact, Dr. Taylor, you don't know the

1 underlying reasons why these 48 other states and the
2 District of Columbia and Puerto Rico have passed the
3 particular laws that they have; is that correct?

4 MR. GONZALEZ-PAGAN: Objection. Form.

5 THE WITNESS: That's correct. I was not
6 involved in their decisions as to what made them to
7 decide to allow people to change their birth
8 certificate.

9 BY MS. SHEW:

10 Q. Let's look at Paragraph 64. And you
11 mentioned this just a moment ago.

12 You were saying that one solution is that
13 the State of Tennessee could permit the -- the "sex"
14 field on the birth certificate to be changed and
15 then maintain the original document under seal;
16 correct?

17 A. That's correct.

18 Q. And you conclude by saying that would then
19 allow transgender people born in Tennessee to have
20 birth certificates or were -- would not -- it would
21 allow them to not have to have, I guess, would --
22 they would not be required to have birth
23 certificates that are inconsistent with their gender
24 identity; correct? In other words, the solution you
25 propose -- the solution you propose in Paragraph 64

1 allows transgender persons to have a birth
2 certificate which is not inconsistent with their
3 gender identity; correct?

4 A. Correct. The State of Tennessee allows a
5 transgender individual to change their gender marker
6 on their birth certificate, and the State of
7 Tennessee keeps an original copy under seal to
8 maintain vital statistics. The individual would be
9 able to obtain a copy that has the correct gender
10 marker for their own private purposes while the
11 state would be able to maintain a copy of the
12 original birth certificate for their own purposes.

13 Q. I'm curious about your use of the phrase
14 "not inconsistent" -- or "inconsistent with their
15 gender identity."

16 So if I identify as female and I have a
17 birth certificate, whether it's original or changed,
18 that says female, then my birth certificate is not
19 inconsistent with my gender identity; correct?

20 MR. GONZALEZ-PAGAN: Object to form.

21 THE WITNESS: Yes. I mean, it's a
22 double negative, but --

23 BY MS. SHEW:

24 Q. Well, I know. I'm trying to stick with your
25 phrase.

1 What -- what if -- what if no birth
2 certificate -- nobody's -- no birth certificate in
3 the State of Tennessee had a field that showed the
4 sex of the person? Would that -- so like everyone
5 else in the State of Tennessee, my birth certificate
6 does not show male or female. Is that -- and I
7 identify as female.

8 Is that inconsistent with my gender
9 identity?

10 MR. GONZALEZ-PAGAN: Objection. Form.
11 You may answer, Dr. Taylor.

12 THE WITNESS: If -- if the document
13 doesn't classify -- if nobody's documentation has
14 any specific mention of gender, then I would say
15 that it is not -- not inconsistent; that it could be
16 consistent.

17 BY MS. SHEW:

18 Q. Okay.

19 A. I don't see a situation in -- where that
20 would exist, though. Like a plausible hypothetical.

21 Q. And why is that?

22 A. Because the birth certificate, at this
23 point, has a gender marker on it.

24 Q. Oh, I understand that. And I was stating a
25 hypothetical.

1 You've said it's not a plausible
2 hypothetical, and I'm asking why is it not a
3 plausible hypothetical?

4 A. Because nobody's proposing to remove the
5 gender distinction on a birth certificate at this
6 point. That's not -- at least not in this case.

7 Q. Right. That's right. That's why my
8 question was hypothetical.

9 Dr. Taylor, do you have an -- do you have
10 any basis or any understanding of what the practical
11 implications would be for the State of Tennessee to
12 allow changes to the "sex" field on -- on birth
13 certificates? I mean, do you understand how that
14 operates or what the logistics or the burden might
15 be?

16 MR. GONZALEZ-PAGAN: Objection. Form.
17 It also falls outside the scope of the expert's
18 testimony.

19 THE WITNESS: I cannot posit on the
20 burden of the state if they were to allow
21 transgender patients to change the sex marker on
22 their birth certificate.

23 MR. GONZALEZ-PAGAN: Dianna, if I may,
24 can we take a quick five-minute break? At least I
25 need one.

1 MS. SHEW: I was just about to suggest
2 that, so let's break for about five minutes, and I
3 suggest, as I did the other day, that people not
4 sign out of the Webex for the break because we --
5 sooner or later, somebody won't make it back in.

6 So if everybody will just do whatever
7 you want to -- whatever you want to do to mute, et
8 cetera, we'll reconvene in about five minutes.
9 Thank you.

10 MR. GONZALEZ-PAGAN: Thank you.

11 (Short break.)

12 BY MS. SHEW:

13 Q. Dr. Taylor, I asked you a little while ago
14 in the deposition about Paragraph 55 of your report.
15 If you'll look at that. That said "Transgender
16 people may feel that they are unable to participate
17 in their communities, neighborhoods, schools, or
18 jobs without having documentation that reflects
19 their gender identity. This can further lead to
20 social isolation and worsening gender dysphoria."
21 And I asked you earlier in your deposition if you
22 knew of specific examples, and you said you would
23 need to -- some time to think about that.

24 Have you thought of any specific examples?

25 A. I have not thought of any specific examples.

1 Q. Did you have any specific examples in
2 mind -- do you recall if you had any specific
3 examples in mind when you authored that particular
4 paragraph?

5 A. I don't know if I had any specific examples
6 in mind.

7 MS. SHEW: Okay. That's all the
8 questions I have.

9 MR. GONZALEZ-PAGAN: Thank you, Dianna.

10 We only have -- Dr. Taylor, we only have
11 one quick follow-up question.

12
13 EXAMINATION

14 QUESTIONS BY MR. GONZALEZ:

15 Q. Do you recall -- in looking at your report,
16 Paragraph 54, do you recall being -- testifying as
17 to problems that people may encounter with regards
18 to preventative care, such as mammograms or Pap
19 smears, once they correct the sex marker on their
20 insurance? Do you recall that line of questioning?

21 A. I do.

22 Q. The fact that people may encounter those
23 issues with insurance coverage for preventative
24 care, does that mean that a person should not be
25 allowed to correct the marker for the sex on their

1 insurance or any other identity document?

2 A. No. I would say patients still should be
3 able to change their gender marker on their
4 insurance and their -- any other documentation that
5 they choose to.

6 MR. GONZALEZ-PAGAN: Thank you. That's
7 all from us.

8 MS. SHEW: I have no -- I have no
9 further questions.

10 All right. So we are concluded today.
11 You will want the witness to read and sign, I'm
12 guessing?

13 MR. GONZALEZ-PAGAN: That's correct. We
14 would ask for -- to read and sign.

15 MS. SHEW: All right.

16 THE REPORTER: And, Counsel, may I have
17 orders on the record, please?

18 MS. SHEW: Transcript orders?

19 THE REPORTER: Yes, please.

20 MS. SHEW: Yes, we -- yes, we've ordered
21 the transcript.

22 MR. GONZALEZ-PAGAN: And we would order
23 a standard delivery transcript for the plaintiffs
24 and I -- Omar Gonzalez-Pagan -- I would receive
25 that.

1 (An off-the-record discussion was held.)

2 MS. SHEW: Electronic is fine for me.

3 MR. GONZALEZ-PAGAN: Electronic is fine
4 with us, as well.

5 THE REPORTER: Okay. Great. Thank you.

6 FURTHER DEPONENT SAITH NOT
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E R R A T A P A G E

I, SHAYNE SEBOLD TAYLOR, M.D., having read the foregoing deposition, pages 1 through 50, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

PAGE	LINE	SHOULD HAVE BEEN
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SHAYNE SEBOLD TAYLOR, M.D.

Notary Public

My Commission Expires: _____
Reported by: LINDSEY R. PERRY, LCR, RPR, CRR, CSR

1 REPORTER'S CERTIFICATE

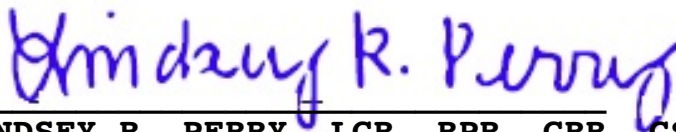
2 STATE OF TENNESSEE

3 COUNTY OF WILLIAMSON

4 I, LINDSEY R. PERRY, licensed court
5 reporter, with offices in Franklin, Tennessee,
6 hereby certify that I reported the foregoing
7 videoconference deposition of SHAYNE SEBOLD TAYLOR,
8 M.D. by machine shorthand to the best of my skills
9 and abilities, and thereafter the same was reduced
10 to typewritten form by me.

11 I further certify I am not related to any of
12 the parties named herein nor related to their
13 counsel and have no interest, financial or
14 otherwise, in the outcome of the proceedings.

15 I further certify that in order for this document to
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ERRATA PAGE

I, SHAYNE SEBOLD TAYLOR, M.D., having read the foregoing deposition, pages 1 through 50, do hereby certify said testimony is a true and accurate transcript, with the following changes (if any):

PAGE LINE

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12

"Every" should be "If a"

Notary Public

My Commission Expires:

Reported by: LINDSEY R. PERRY, LCR, RPR, CRR, CSR

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF TENNESSEE
NASHVILLE DIVISION

KAYLA GORE, JAIME COMBS, L.G., and
K.N.,

Plaintiffs,

v.

WILLIAM BYRON LEE, in his official
capacity as Governor of the State of
Tennessee and LISA PIERCEY, in her
official capacity as Commissioner of the
Tennessee Department of Health,

Defendants.

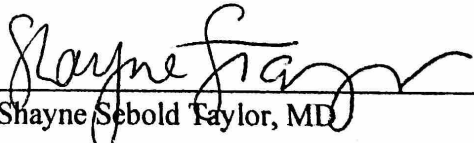
Case No. 3:19-cv-00328

Judge Eli J. Richardson
Magistrate Judge Barbara Holmes

ERRATA DECLARATION

I, Shayne Sebold Taylor, MD, having read the foregoing transcript of my deposition taken on April 15, 2020, pages 1 through 50, do hereby certify under penalty of perjury under the laws of the United States of America that said deposition testimony is a true and accurate transcript, with the changes detailed on the attached errata page.

Executed on this 13 day of May 2020.


Shayne Sebold Taylor, MD

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